

REMARKS/ARGUMENTS

Claims 1, 6 and 22-24 are pending in the present application. Claims 2-5 and 7-21 are canceled. Claims 22-24 are new. Support for the claim amendments and new claims can be found in the claims as originally filed, as the claim amendments incorporate features from previously presented dependent claims. Support for the new claims can be found in the Specification on pages 6-8. No new matter is added. Reconsideration of the claims is respectfully requested.

Applicants have amended some claims and canceled others. Applicants do not concede that the subject matter encompassed by the earlier presented claims is not patentable over the art cited by the Examiner. Applicants canceled claims in this response solely to facilitate expeditious prosecution of this application. Applicants traverse all rejections and respectfully reserve the right to pursue the earlier-presented claims including subject matter encompassed by claims 1-21 prior to this amendment, and additional claims, in one or more continuing applications.

I. Examiner Interview

Applicants thank Examiner Patel for the interview held on July 1, 2008 between the Applicants' representatives and the Examiner. The Examiner and the undersigned attorney discussed the 35 U.S.C. §103 rejection was also discussed. Applicants have incorporated Examiner's claim amendments. Examiner Patel indicated further consideration of the claim amendment would be given.

II. 35 U.S.C. § 103, Obviousness

The Examiner rejects claims 1, 4-8, 11, 13, 15, 18 and 20 under 35 U.S.C. § 103 as obvious over Smith (U.S. 6,993,495). This rejection is respectfully traversed.

The Examiner states:

Regarding Independent claims 1, 8 and 15, A method for generating a survey for a computer system on a network, the method comprising the steps of storing an HTML formatted survey document on a computer-readable medium of a first computer system, the survey document having questions and answers in a certain format, wherein the questions and answers are for delivery in the survey document over a network to a second computer system and wherein the survey document is for presenting to a user by the second computer system i) ones of the survey document questions and ii) answers from the survey document for selecting on the second computer by the user of the second computer, wherein according to the certain format of the survey document, the questions and answers are defined as XML data elements included in the survey document as strings of text surrounded by text markups, including tags describing the data elements and attributes defining associations among the questions and answers, including associations such that ones of the questions branch from ones of the answers; and storing

an HTML formatted document and programming instructions on a computer-readable medium of the first computer system, the programming instructions being written in an object oriented, interpreted, dynamic programming language and the HTML formatted document and programming instructions being for delivery over the network to the second computer system, the programming instructions including first instructions for receipt and execution as an applet in a browser of the second computer system, wherein the execution of the first instruction as an applet causes the second computer system to parse the data elements from the survey document into data arrays having cross-references defining the associations among questions and answers; second instructions for receipt and execution as an applet in a browser of the second computer system, wherein the execution of the second instruction as an applet causes the second computer system to display in a browser on a user interface of the second computer system a first set of one or more of the questions and corresponding, selectable answers and causes the second computer system to then repeatedly select and display additional sets of one or more of the questions and corresponding, selectable answers, wherein the repeated selecting and displaying of the additional sets of one or more of the questions and corresponding, selectable answers is by the second computer and not the first computer and is responsive to answers selected by the user on the second computer; and wherein the repeated selecting by the second computer system is further responsive to ones of the cross-references of the data arrays arising from the second computer system parsing the data elements from the survey document; and third instructions for receipt and execution as an applet in a browser of the second computer system, wherein the execution of the third instructions as an applet causes the second computer to return results to the first computer system as an XML formatted answer response document defining the answers selected by the user as data elements included in the survey document as strings of text surrounded by text markups, including tags, wherein the text markups describe the data elements.

Final Office Action dated April 3, 2008, pp. 2-4.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). The prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In determining obviousness, the scope and content of the prior art are... determined; differences between the prior art and the claims at issue are... ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or non-obviousness of the subject matter is determined. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. *JKS Int'l. Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007). Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some

articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006).

In the case at hand, the reference, considered as a whole, does not teach or suggest all the features of the claim 1. Amended claim 1 is as follows:

1. (Currently Amended) A method for generating a survey for a computer system on a network, the method comprising the steps of:

storing an HTML formatted survey document on a computer-readable medium of a first computer system, the survey document having questions and answers in a certain format, wherein the questions and answers are for delivery in the survey document over a network to a second computer system and wherein the survey document is for presenting to a user by the second computer system i) ones of the survey document questions and ii) answers from the survey document for selecting on the second computer by the user of the second computer, wherein according to the certain format of the survey document, the questions and answers are defined as XML data elements included in the survey document as strings of text surrounded by text markups, including tags describing the data elements and attributes defining associations among the questions and answers, including associations such that ones of the questions branch from ones of the answers;

storing a document type definition file on the computer-readable medium of the first computer system, the document type definition file being for delivery over the network to the second computer system, wherein programming instructions include instructions for causing the second computer system to validate the XML data elements responsive to the document type definition file; and

storing an HTML formatted document and programming instructions on a computer-readable medium of the first computer system, the programming instructions being written in an object oriented, interpreted, dynamic programming language and the HTML formatted document and programming instructions being for delivery over the network to the second computer system, the programming instructions including:

first instructions for receipt and execution as an applet in a browser of the second computer system, wherein the execution of the first instructions as an applet causes the second computer system to parse the data elements from the survey document into data arrays comprising a hash table and having cross-references defining the associations among questions and answers;

second instructions for receipt and execution as an applet in a browser of the second computer system, wherein the execution of the second instructions as an applet causes the second computer system to display in a browser on a user interface of the second computer system a first set of one or more of the questions and corresponding, selectable answers and causes the second computer system to then repeatedly select and display additional sets of one or more of the questions and corresponding, selectable answers, wherein the repeated selecting and displaying of the additional sets of one or more of the questions and corresponding, selectable answers is by the second computer and not the first computer and is responsive to answers selected by the user on the second computer, and wherein the repeated selecting by the second computer system is further responsive to ones of the cross-references of the data arrays arising from

the second computer system parsing the data elements from the survey document; and

third instructions for receipt and execution as an applet in a browser of the second computer system, wherein the execution of the third instructions as an applet causes the second computer to return survey results to the first computer system as an XML formatted answer response document defining the answers selected by the user as data elements included in the survey document as strings of text surrounded by text markups, including tags, wherein the text markups describe the data elements.

The Examiner cites to the following portion of *Smith* as teaching the features of claim 1:

A system for dynamically assigning a survey to a respondent is described herein. According to one embodiment of the invention, in response to receiving a request to participate in a survey, a set of one or more screening questions are generated and presented to a respondent to determine the particular survey that should be provided to the respondent. In certain embodiments, the contents of the screening questions are based, at least in part, on target participation criteria that is associated with the currently available, and possibly soon to be available, surveys ("active surveys"). In addition, other "supplemental" information, such as cookie, URL parameter or other browser-based information may be used to determine the contents of the screening questions.

The screening question may be provided to the respondent using a variety of different communication protocols and languages that are transmitted over one or more network systems. For example, a screening question interfaces may be generated using a variety of different page formats that may include, but is not limited to, HTML, XML, Java Script, Applets, or any other type of language or format that can be used to present the screening questions to a respondent. Similarly, the network systems may include a company's private network, a public network, such as the Internet, one or more wireless connections, or any combination thereof.

Based on the input data that is received in response to the respondent answering the screening questions, a candidate group of zero or more surveys is identified from the set of active surveys. In one embodiment, if the candidate group of surveys consists of a single active survey, that survey is selected and presented to the respondent for their participation. Alternatively, if the candidate group of surveys consists of two or more active surveys, other information, such as statistical information about the two or more active surveys, is used to determine which survey to present to the respondent. For example, current survey participation data that provides statistics about the two or more surveys may be used, at least in part, to determine which of the two or more surveys should be selected and presented to the respondent for their participation. Similarly, if the candidate group of surveys consists of zero active surveys, then the current survey participation data associated with one or more of the active surveys can be used to determine which of the active surveys, if any, should be selected and presented to the respondent for their participation.

Once the particular survey is selected, the survey is forwarded to the respondent

for completion. The results of the survey are then captured and used to generate statistical information about how the respondents answered the particular survey.

Smith teaches assigning a previously generated survey to a respondent upon receiving a request for participation in the survey. *Smith* also teaches defining and generating a survey document as follows:

In certain embodiments, the client may include "branching" in defining the survey. The inclusion of branching in the survey allows for a different survey question to be presented based on previous response(s). For example, FIG. 4 illustrates example questions (402, 406, 410 and 414) that are associated with responses (404, 408, 412 and 416) respectively. By including branching in the survey, if in responding to question 402 a network user taking the survey selects the response option of "I do not read any newspapers" in response 404, then network user may next be presented with question 410 and with response 412. However, if the network user selects a response other than "I do not read any newspapers" then the network user may instead be presented with question 406 and response 408.

Smith, col. 9, lines 55-67 through col. 10, lines 1-4.

After a client selects the pay button, enters valid payment information, and agrees to the terms and conditions associated with using the automatic survey mechanism, the automated survey mechanism determines the particular location (controlled by the automated survey system) where the survey will reside on the network. The automated survey mechanism then generates a survey based on the information (survey definition) supplied by the client and places it at the identified location. In certain embodiments, the generated survey consists of one or more HTML pages that are accessible over the Internet or Intranets to network users wanting to take the survey.

Smith col. 12, lines 22-33 states:

The above cited section teaches that after a survey has been selected, based on the respondent's response to a screening question, the survey, consisting of one or more HTML pages, is available to be presented to a respondent. However, *Smith* does not teach or suggest the feature "parse the data elements from the survey document into data arrays comprising a hash table and having cross-references defining the associations among questions and answers" as claimed in claim 1.

The Examiner admits that *Smith* does not explicitly teach the use of a document type definition. However, the Examiner asserts that *Smith* provides a significant suggestion for using validation rules. The Examiner cites to the following portion of *Smith*:

In addition to generating and storing the survey, the automated survey mechanism generates response validation rules that are automatically enforced. These rules provide a mechanism for validating the responses from network users input as they participate in a survey. In certain embodiments, the response validation rules are linked to the survey to ensure the data provided by a network user is logically valid and consistent with questions in the survey. The response validation rules can be used to increase the quality of the survey data that is

provided to the client. In certain embodiments, errors or logical inconsistencies that are identified are reported to the network user thus enabling them to take correct action (i.e. enter valid information).

Smith col. 12, lines 34-36

The above cited section teaches using validation rules to validate the responses from users participating in the survey. However, claim 1 teaches that document type definition is used to validate the data elements responsive to the document type definition file. A person of ordinary skill in the art would not interpret the document type definition of claim 1 as teaching rules for validating data, e.g. a user survey response, as taught in *Smith*. *Smith* fails to teach or suggest each and every feature of claim 1. Accordingly, a rejection under 35 U.S. C. 103 is overcome.

Moreover, the Examiner failed to state a *prima facie* obviousness rejection against claim 1 because the Examiner failed to state a proper reason to combine the references under the standards of *KSR Int'l*. As shown above, *Smith* simply does not teach or suggest what the Examiner believes these references to teach and suggest. Therefore, the reasoning provided by the Examiner to combine the references rests on inherently flawed reasoning. For this reason, the Examiner did not state a proper, rational reason to combine the references as required by *KSR Int'l*. Accordingly, the Examiner failed to state a *prima facie* obviousness rejection against claim 1 or any other claim in this grouping of claims.

III. New Claims

Independent claim 22 recites features discussed above with regard to claim 1. Therefore, claim 22 is not obvious over the cited prior art reference for at least the reasons set forth above with regard to claim 1. In addition, claim 22 recites additional combinations of features that are not taught or suggested by the cited prior art. Claim 22 claims:

22. A computer implemented method for generating a survey, the computer implemented method comprising:
 - storing an XML survey document in a memory of a first computer system, wherein the XML survey document comprises a plurality of questions and corresponding answer options, a root node and a plurality of sub-nodes branching from the root node, wherein each question and corresponding answer options are defined as XML data elements, wherein attributes define the associations among the XML data elements and define question branches;
 - sending programming instructions to a second computer system for execution as an applet in a browser of the second computer system and a document type definition file, wherein the execution of the programming instructions as an applet causes the second computer system to parse the data elements into a plurality of data arrays using the document type definition file, wherein each data array in the plurality of data arrays comprises a hash table and cross-references defining associations among each question and corresponding answer options in the plurality of questions and corresponding answer options and identifying additional questions and corresponding answer options;

providing a question and corresponding answer options, from the plurality of questions and corresponding answer options, to a user on the second computer system;

receiving a user input comprising user selected answer options responsive to the provided question;

traversing the each data array to determine whether the user selected answer options identifies additional questions and corresponding answer options; and

responsive to determining that the user selected answer options identifies the additional questions and corresponding answer options, presenting the additional questions and corresponding answer options to the user on the second computer system.

Smith does not teach or suggest that the survey document is parsed into a plurality of data arrays using a document type definition document, that a user input comprising user selected answer options responsive to the presented set of questions is received, nor does *Smith* teach traversing the data array to determine whether the user selected answer options identifies additional questions and corresponding answer options, as is recited in claim 22. Therefore, an obviousness rejection cannot be stated against claim 22.

Newly added dependent claims 23-24 recite similar subject matter that is discussed above with regard to claim 22. Accordingly, an obviousness rejection cannot be stated against claims 23-24. Additionally, dependent claims 23-24 depend from claim 22. Therefore, at least by virtue of their dependency, dependent claims 23-24 are not obvious over *Smith*.

IV. Conclusion

It is respectfully urged that the subject application is patentable over the cited reference(s) and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: July 2, 2008

Respectfully submitted,

/LaRhonda Jefferson-Mills/

LaRhonda Jefferson-Mills
Reg. No. 61,649
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorney for Applicants